Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
2000 Biennial Regulatory Review --	)	CC Docket No. 00-199
Comprehensive Review of the	)	
Accounting Requirements and	)	
ARMIS Reporting Requirements for	)	
Incumbent Local Exchange Carriers:	)	
Phase 2	)	
	)	
Amendments to the Uniform System	)	CC Docket No. 97-212
Of Accounts for Interconnection	)	
	)	
Jurisdictional Separations Reform and	)	CC Docket No. 80-286
Referral to the Federal-State Joint Board	)	
	)	
Local Competition and Broadband	)	CC Docket No. 99-301
Reporting	)	

PHASE 3 REPLY COMMENTS OF THE
OFFICE OF PUBLIC UTILITY COUNSEL

The Texas Office of Public Utility Counsel, ("OPC"), offers these reply comments pursuant to the Further Notice of Proposed Rulemaking released in this docket on November 5, 2001. OPC represents the interests of residential and small commercial electric and telephone customers before the Texas Public Utility Commission, the courts, the Federal Energy Regulatory Commission and the FCC.

OPC is supportive of the comments made by several commentators regarding the need for continuing property records (CPR) and other accounting and reporting

requirements under Part 32 and Part 64 rules.[1] While Texas basic local service rates for all dominant telephone companies are frozen until 2005, the existence of this regulation does not, *per se*, mitigate the need for detailed accounting and affiliate transaction information, as asserted in the joint comments of Bell South, SBC, Verizon, Owest, Frontier and Cincinnati Bell Telephone. CPR, in some instances, is the only tool for monitoring telephone accounts. Texas regulatory bodies rely on CPR for the determination of UNE rates and Universal Service Fund requirements, for assessing the reasonableness of interconnection rates, and for the construction of long run incremental cost studies.[2] The Commission asks whether there are alternative avenues for the state to gather information pertaining to property records they need for state regulatory proceedings. While it is possible that each individual state could implement its own CPR requirements, the regulatory burden on telephone companies is not mitigated by such a requirement. Instead of a uniform state by state CPR record, telephone companies will potentially have to comply with a hodge-podge of rules from 51 different regulatory jurisdictions. Comparisons between states may not be useful, since it is unlikely each state will implement identical CPR requirements. This will not only increase the regulatory burden of the telephone companies but also the various regulatory jurisdictions. For instance, Texas substantive rules require detailed revenue, expense and asset accounting for all Class A and Class B telephone companies in accordance with the

[1] See Initial Comments of the National Association of Regulatory Utility Commissions, Initial Comments of the National Association of State Consumer Utility Advocates, Comments of the Indiana Utility Regulatory Commission and Comments of the Michigan Public Service Commission.

[2] Dominant telephone companies in Texas may decrease other rates only through a showing that the rate at least covers long run incremental cost.

FCC prescribed system of accounts. Any change or elimination of CPR data by the FCC will require lengthy and expensive review in a rulemaking proceeding.

OPC also agrees with other commentators that the Commission's affiliate transaction rules should not be eliminated until there is a finding that meaningful economic competition exists in the local exchange market. The Commission raises the question whether price cap carriers that have obtained pricing flexibility retain any incentive or ability to engage in improper cost-shifting or cross subsidization. As long as ILEC's remain dominant in the provision of local exchange service, there will be a continued incentive to shift costs from competitive services to the non-competitive local exchange services.

While affiliate transaction rules may not be always immediately relevant to local service price caps or pricing flexibility, they are still very relevant to the determination of UNE rates and Universal Service Fund requirements. Texas, for instance, requires the utilization of forward looking long run incremental cost studies for the setting of UNE rates and USF fees. Forward looking LRICS in these cases are highly dependent on historical local loop costs, which often include costs incurred through transactions with other affiliates. The potential for cross subsidization of competitive services in UNE rates, for instance, is even discussed by the joint comments of Bell South, *et. al*. If the Commission's affiliate transactions rules are relaxed or eliminated, there will be increased potential for cross subsidization and competition in local service markets may become even more of a dim reality that it is today.

Finally, the Commission seeks comment on whether to implement a centralized service exception from fair market valuations for services provided outside the corporate

family. The USTA and Bell South, *et. al.*, proposals for applying the exception on a service-by-service basis (rather than on an affiliate-by-affiliate basis) are not tenable. USTA and Bell South, *et. al.*, are essentially requesting that they be allowed to sell corporate services to outside third parties and not be subject to the fair market valuation rule. This exception will only increase the risk for cost misallocations and the cross subsidization of competitive services. Furthermore, there is no effective method for determining whether the Commission's proposal to adopt a five or ten percent *de minimus* exception (or alternatively a $500,000 threshold) to the fair market valuation rule would affect the potential for cross subsidization. This would obviously depend on the types of services offered to third parties and the number of other affiliates receiving the service.

Respectfully submitted,

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